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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,834	11/19/2003	Dwight E. Nickel	33059	7068

7590 09/07/2004

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EXAMINER

PETRAVICK, MEREDITH C

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/716,834	Applicant(s) NICKEL ET AL.	
	Examiner Meredith C Petravick	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8-10, 14-20, 24, 25 and 29-31 is/are rejected.
- 7) ☒ Claim(s) 4-7, 11-13, 21-23 and 26-28 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/25/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 17-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Holtkotte 6,584,755

Holtkotte discloses a crop conditioner including:

- a pair of oppositely rotatable rolls (28) that are movable toward and away from one another
- a tension mechanism with a hydraulic cylinder (38) and a hydraulic circuit (Fig. 2)

Regarding claims 18-19, the circuit includes a valve (40) for setting the pressure level in the cylinder.

Regarding claim 20, the circuit includes a compressible gas accumulator (Column 3, lines 4-6).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 8-9, 14-16, 24-25 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook, 6,050,070 in view of Garrett et al. 3,513,645 and Pruitt et al., 6,158,201.

Cook discloses a crop conditioner (Fig. 16) including:

- a front pair of movable non-compressible surface rolls (83,81)
- a rear pair of movable compressible surface rolls (5,6)
- a tension mechanism (Figure 16 and Column 9, lines 34-36) to resist relative movement of the rolls of each pair away from one another

Cook fails to disclose the front pair of roller having intermeshing helical metal ribs and the rear pair having intermeshing helical bars. However, Cook suggests that the front pair of rollers may include any patten or combination of protrusions around it outer surface (Column 9, lines 42-44) and that the rear pair of rollers “may be imparted with any one of a number of different patterns. (Column 4, lines 64-66)”

Like Cook, Pruitt et al. discloses a crop conditioner having non-compressible surface rolls (170, 172). The rolls have intermeshing, helical metal ribs (Column 7, lines 62-66).

Also like Cook, Garrett et al. discloses a crop conditioner having compressible surface rolls (2, 3). The rolls have intermeshing, helical bars (Column 2, lines 8-21).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the front pair of rollers in Cook have intermeshing, helical metal ribs as in Pruitt et al., as one known type of non-compressible roller used to condition crops, and

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to make the rear pair of rollers in Cook have intermeshing helical bars as in Garrett et al., as one known type of compressible roller that efficiently conditions crops.

Regarding claims 8-10, the tension on the rollers can be independently adjusted since they are independently supported by the tension mechanism.

Regarding claims 14-16, the front rollers are made from metal and the rear roller is made from rubber, elastomer or neoprene (Cook, Column 4, lines 58-59).

Regarding claim 2, the conditioner has an adjustable stop (Cook, 77).

Allowable Subject Matter

5. Claims 4-7, 11-13, 21-23, 26-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith C Petravick whose telephone number is 703-305-0047. The examiner can normally be reached on M-T 8:00 a.m.- 5:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Meredith C Petravick
Patent Examiner
Art Unit 3671

September 2, 2004